



California Fair Political Practices Commission

December 4, 1985

Debbe Morgan
315 Florentine Boulevard
Yreka, CA 96097

Re: Your Request for Advice,
Our File No. A-85-245

Dear Ms. Morgan:

Thank you for your letter requesting advice concerning your election to the governing board of the Yreka Union Elementary School District. This letter confirms my previous telephone advice.

You have informed us that you are currently a classified employee (teacher's aide) of the Yreka Union Elementary School District, and that you have recently been elected to the governing board of that school district. You have asked whether you may simultaneously hold both positions.

Initially, you should note that this advice is limited to the application and interpretation of the Political Reform Act.^{1/} There may be other laws which apply to your situation, such as Government Code Section 1090 and Education Code Section 35233, which concern contracts made by public agencies, and the common law doctrine of incompatible offices. We cannot advise you concerning those other laws, but you should consider contacting the Attorney General's office for advice on those matters.^{2/}

1/ Government Code Sections 81000-91015 (copy enclosed). All statutory references are to the Government Code unless otherwise specified.

2/ Chapter 816 of the Statutes of 1985, which will become effective January 1, 1986, repeals Education Code Section 35233 and provides that school board members are subject to the restrictions of Government Code Section 1090. The Attorney General's office has written opinions concerning Section 1090, and also concerning the common law doctrine of incompatible offices.

Ms. Debbe Morgan
December 4, 1985
Page 2

Turning to the Political Reform Act, Section 87100 prohibits any public official from making, participating in, or attempting to use her official position to influence a governmental decision in which she has a financial interest. A public official has a financial interest in a decision if the decision would have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on the official or a member of her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103.

If a public official has a financial interest in a decision, the Political Reform Act requires that the official refrain from participating in that decision, but in no instance requires the public official to resign from office. Therefore, we conclude that the Political Reform Act does not prohibit you from simultaneously being a classified employee of the Yreka Union Elementary School District and a member of the governing

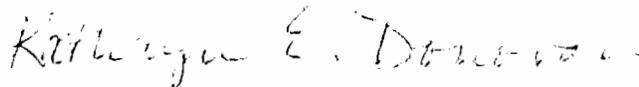
Ms. Debbe Morgan
December 4, 1985
Page 3

board of that district. However, under certain circumstances, you may be required to disqualify yourself from participating in decisions of the governing board.

Whether or not a public official is disqualified from participating in a governmental decision must be determined on a decision-by-decision basis. One of the questions we discussed on the telephone was whether you would be disqualified from participating in decisions affecting your salary as a teacher's aide. I informed you that your salary from the school district would not be considered "income" for purposes of the Political Reform Act (Section 82030(b)(2)), and, therefore, the Political Reform Act would not require you to disqualify yourself from participating in decisions of the school board which would affect your salary. See also 2 Cal. Adm. Code Sections 18700(d)(3) and 18702.1(c)(2) (copies enclosed).

If you have any other questions about whether you may participate in specific decisions pending before the governing board of the School District, please contact us at (916) 322-5901 for additional advice.

Very truly yours,



Kathryn E. Donovan
Counsel
Legal Division

KED:nwm

Enclosures

cc: Bill Baker, Superintendent of Yreka Union School District

315 Florentine Blvd.
Yreka, Calif. 96097

November 15, 1985 Nov 25 8 21 AM '85

Ms. Kathryn Donovan
State of California
Fair Political Practices Commission
P.O. Box 807
Sacramento, Calif. 95804

Dear Ms. Donovan:

This letter is in reference to our discussion of November 12 regarding my election to the Yreka Union Elementary School Board and the continuing harassment by Mr. Bill Baker, District Superintendent.

I met with Mr. Baker on the afternoon of November 14. He was unable to produce evidence of a written county or state ordinance prohibiting my appointment to the Board. It is his personal opinion that my employment as a teacher's aide (3 hours daily) establishes a conflict of interest.

I have enclosed a copy of a letter from the County Counsel's office that he presented to me during the above meeting. This office, too, is unable to find any law or statute in the California Constitution prohibiting my election. The only stipulation in Mr. Stanley's letter regards the appointment of a faculty member as a Board member.

Mr. Baker's parting comment to me at the above meeting was that should I not resign as an aide before or after being sworn on the Board, he would be forced to contact the District Attorney's office and have charges filed against me. This position did not change even after I informed him that I had contacted your office, the ACLU, and Senator John Doolittle's office and the consensus was that there is no legal reason why I should not be a Board member.

I would, therefore, appreciate answers to the following questions or direction as to where I can get answers:

1. Can he take this matter to the District Attorney? Our school district is not controlled by a city charter, but by the California Constitution, as Yreka is a general law city.

2. Should he pursue this by legal action, what type of legal assistance is available to me as I am not in a financial position to afford an attorney.

3. Would you please send me a copy of the Reform Act we discussed regarding conflict of interest?

4. Would your office be willing to write to Mr. Baker explaining that you see no legal reason why I cannot be seated on December 3 and still keep my position as an aide?

In conclusion, my family and I are tired of Mr. Baker's continual harassment (even though in our conversations he tells me not to take this "personally"). However, until a legal reason can be shown as to why I cannot be seated, I will continue to fight him.

Sincerely,

Debbe Morgan
Debbe Morgan

9-27-1979



California Fair Political Practices Commission

March 11, 1986

Debbe Morgan
315 Florentine Blvd.
Yreka, CA 96097

Re: Your Request for Advice
Our File No. A-85-245

Dear Ms. Morgan:

We have received your letter requesting assistance concerning whether you have a conflict of interest in serving simultaneously as a teacher's aide and a member of the governing board for the same school district. You have informed us that in a recent court decision, a judge held that you had a conflict of interest under Government Code Section 1090 and said you must choose between the two positions.

Unfortunately, the Fair Political Practices Commission does not have authority to act in matters involving Section 1090. I am sending a copy of this letter and your letter to the Attorney General's Office. I understand that the judge in your case disagreed with the Attorney General's advice that you did not have a conflict of interest under Section 1090. However, it is possible that an appellate court would reach a conclusion in accordance with that of the Attorney General's Office.

I am sorry that I can provide no further assistance in this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
Counsel
Legal Division

KED:plh

cc: Ted Prim, Attorney General's Office

MAR 10 6 50 AM '86
MAR 10 6 50 AM '86

David W. Morgan
315 Alameda Blvd
YREKA, CA 96097
March 6, 1986

Dear Ms. Donovan,

I am writing to let you know what has happened with my case.

We went to Court last Thursday. The judge handed down a ruling yesterday against me, "Conflict of Interest."

He says I have to choose between the two positions (teachers aide 15 hrs per week, school board member) Ruling under Gov. Code 1090 effective Jan., 1986. I was sworn in under another Gov. Code. This doesn't seem to matter.

The Attorney General handed down an opinion in Dec. around the 20th or so, in my favor. This doesn't seem to matter.

There is another employee under the same School District as me. There is a Bill in Senate, Right Now, asking for a ruling in his favor. He is an employee and board member. This doesn't seem to matter. How can this be?

The very most distressing news is: I have continued to work through.

are of this. Mrs. Tallent, County Superintendent says (newspaper article as of yesterday) of I don't recognize my base position I will not be paid for this time, Mrs. B. 1100.00. During this period the office even called me to work extra over duty. This has no bearing on the situation!

I would have to check my aide position too - my base position do get paid for this time. I have worked for over 3 months since I was out and.

Regarding my pay, I today have called the State Dept. of Labor, they have no jurisdiction. They told me to call the U.S. Dept. of Labor, they have no jurisdiction.

That there are other employees in the State of California, that are lawmakers though we can get no numbers (from many people) This also doesn't seem to matter. This situation is a perfect

example of a corrupt and community. I have had "no rights" since Kaylene against

"The Powers That Be."

There must be someone, somewhere that can help me. If you have no money, you can find no one with the compassion to help in our Great System.

I had to hire an attorney, for what good it has done. People in the community have set up and contributed to a fund to help with attorney fees.

I thank you deeply for your help in the past. Please find it in your heart to help me further.

Please reply.

Sincerely,
Debbie Morgan
Tel 916-842-5875
mms 916-842-2263

urgent!

We have ten days to present any additional information to the judge.

MAR 10 8 50 AM '86
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Eschle Morgan
315 Alameda Blvd
YREKA, CA 96097
March 6, 1986

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The very most distressing news is: I have continued to work through.

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I would have to choose my aide position over my board position to get paid for this time. I have worked for over 3 months since I was sworn in.

Regarding my pay, I today have called The State Dept. of Labor, they have no jurisdiction. They told me to call The U.S. Dept. of Labor, they have no jurisdiction.

That there are other employees in the State of California, that are boardmembers. Though we can get no numbers (how many people.) This also doesn't seem to matter.

This situation is a perfect example of a corrupt small community. I have had "no rights" since Day One against

"The Powers That Be."

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Please reply.

Sincerely,
Debbie Morgan
Tel 916-842-5875
mso.916-842-2263

Important!

We have ten days to present any additional information to the judge.